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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,229	08/20/2001	Kenneth N. Harel	CONTC.57582	6394
27629	7590	12/01/2003	EXAMINER	
FULWIDER PATTON LEE & UTECHT, LLP 200 OCEANGATE, SUITE 1550 LONG BEACH, CA 90802			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,229

Applicant(s)

HAREL, KENNETH N.

Examiner

Phi D A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-17,30 and 35-51 is/are pending in the application.
- 4a) Of the above claim(s) 37-40 and 49-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17,30,35,36 and 41-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 35-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are depending on cancel claims 31-34. the claims are thus indefinite. The claims are not examined as it is unclear what the scope should be. However, as is, the claims appear to belong to a different class, to that of the property of paper. If it were claimed properly as is, the claims would be restricted as to a different class. The examination of the claims are thus pending the modification of the claims and their dependency.

Election/Restrictions

1. Newly submitted claims 37-40, 49-51 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are to a drywall joint device with panels.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 37-40 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20, 41-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al (6295776) in view of Peterson (2012203) and Westberg (1586018).

Kunz et al (figure 1) shows a drywall corner protection strip device having an elongated continuous metallic core (12) configured with a lengthwise central portion arcuate in cross section and terminating on each longitudinal core edge in a generally planar, lengthwise flange portion, the core thus having a generally convex outer surface and a generally concave inner surface, a paper cover (20) centrally bonded to the core (col 3 lines 48-50) on the outer surface and configured such that the longitudinal edges of the cover extend beyond the longitudinal core edges to form flexible flaps having respective outwardly facing and inwardly facing surfaces.

Kunz et al does not show the flap having lengthwise grooves and with ridges permanently formed in alternating relationship along the outwardly facing surface, spaced apart perforations formed along the grooves.

Peterson (figure 1) shows a cover having lengthwise grooves (5) and ridges (7) on a flap of a cover to impart flexibility to the cover to compensate for the plaster shrinkage and expansion, perforations formed along the grooves to allow compound to connect the interior and outer surfaces.

Art Unit: 3637

Westberg discloses grooves and ridges enabling the forming of a more perfect bond between a cover and plaster (col 2 lines 55-59).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having lengthwise grooves and with ridges permanently formed in alternating relationship along the outwardly facing surface, spaced apart perforations formed along the grooves because it would enable the cover to compensate for expansion and shrinkage in the plaster as taught by Peterson and a more perfect bond of the attachment of the cover to plaster as taught by Westberg.

Per claims 46-48, Kunz as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of making Kunz's device.

3. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al(6295776) in view of Weldy (re34547).

Kunz et al (figure 1) shows a protective drywall joint device having a rigid elongated core (12) of a predetermined width, longitudinal edges, outer and inner surface, a paper cover (20) bonded to the core (col 3 lines 48-50) and configured to project laterally beyond at least one of said longitudinal edges to form at least one flexible flap (the edge of the cover which extends beyond the core), a plurality of perforations on the flaps spaced equidistant on the outer surface. Kunz et al does not show the flap having at least four parallel elongated grooves defining therebetween respective ribs, the grooves being spaced 1/8th of an inch apart, said ribs being raised outwardly from the bottom of the respective said grooves at least 1/64th of an inch.

Art Unit: 3637

Weldy (col 3 lines 37-40) discloses a plurality of perforations(26, figure 1) spaced equidistant along the grooves, a plurality of grooves lengthwise and ridges interposed therebetween to allow for strong engagement with a plaster material/mud (col 3 lines 49-55).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having at least three/four grooves lengthwise and four ridges interposed therebetween, the flaps having perforations spaced equidistant along the grooves because it would enable strong engagement with a plaster material/mud to attach the cover to a wall as taught by Weldy, and it would have been an obvious matter of design choice to show the grooves being spaced $1/8^{\text{th}}$ of an inch apart, said ribs being raised outwardly from the bottom of the respective said grooves at least $1/64^{\text{th}}$ of an inch since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

4. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al(6295776) in view of Weldy(re34547).

Kunz et al (figure 1) shows a protective drywall joint device having a relatively rigid elongated core (12) formed with angular flanges(figure 3, the intersection of the planar(16 and the curving part (12)) terminating in longitudinal edges (figure 1, at 18), the core having a convex outer surface and a concave inner surface, cover (20) bonded to the core (col 3 lines 48-50) and configured to project laterally beyond said longitudinal edges to form flexible flaps (the edge of the cover which extends beyond the core), each cover having an outwardly facing surface and an inwardly facing surface, a plurality of perforations on the flaps to provide for the

Art Unit: 3637

communication of uncured joint compound between the inner and outer surface, the compound when dried inherently would form compound posts.

Kunz et al does not show the flap having elongated grooves lengthwise and ridges disposed in alternating fashion along the outwardly facing surface, the flaps having perforations along the grooves.

Weldy (col 3 lines 37-40) discloses a plurality of perforations(26, figure 1) along the grooves, a plurality of grooves lengthwise and ridges disposed in alternating fashion along at the outwardly facing surface to allow for strong engagement with a plaster material/mud (col 3 lines 49-55).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having elongated grooves lengthwise and ridges disposed in alternating fashion along the outwardly facing surface, the flaps having perforations along the grooves because it would enable strong engagement with a plaster material/mud to attach the cover to a wall as taught by Weldy.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunz et al(6295776) in view of Weldy(re34547).

Kunz et al (figure 1) shows a drywall joint assembly strip device having an elongated core/core means (12), a cover/cover means (20) bonded to the core (col 3 lines 48-50) and configured to project laterally beyond said longitudinal edges to form at least one flexible flaps (the edge of the cover which extends beyond the core), each cover having an outwardly facing surface and an inwardly facing surface, a plurality of perforations/communication means on the

Art Unit: 3637

flaps to provide for the communication of uncured joint compound between the inner and outer surface, the compound when dried inherently would form compound posts.

Kunz et al does not show the flap having compound directing means/moisture-directing means, longitudinal rib means/reinforcing means, and the communication means being formed along the moisture directing means.

Weldy (col 3 lines 37-40) discloses a plurality of grooves/compound directing means/moisture directing means and ridges/rib/reinforcing means at the outwardly facing surface to allow for strong engagement with a plaster material/mud (col 3 lines 49-55), the grooves/communicating means forming along the moisture directing means.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kunz et al to show the flap having compound directing means/moisture directing means, longitudinal rib/reinforcing means, the communicating means formed along the moisture directing means because it would enable strong engagement with a plaster material/mud to attach the cover to a wall as taught by Weldy.

Response to Arguments

2. Applicant's arguments with respect to claims 15-17, 37-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different trim device and method of applications.

Art Unit: 3637

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A
November 17, 2003